

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)	
)	CRIMINAL NO. 04-10059-MEL
v.)	
)	
GEORGE A. GRACIE,)	
Defendant)	

GOVERNMENT'S SENTENCING MEMORANDUM

The United States submits this sentencing memorandum in advance of the April 20, 2005 sentencing of Defendant George Gracie ("Gracie"). On January 31, 2005, Gracie pleaded guilty to an Indictment charging him with 13 counts of mail fraud, in violation of 18 U.S.C. § 1341. From mid-1998 through mid-2002, Gracie embezzled in excess of \$120,000 from the Boston Taxi Industry Scholarship Fund (the "Taxi Fund"), a fund set up to provide scholarship assistance to taxi industry employees and their families.

I. Background

The facts set forth are not materially disputed by the parties. As set forth in the Presentence Report ("PSR") (see ¶¶ 14-23), at all relevant times, Gracie was a trustee and the treasurer for the Taxi Fund. From mid-1998 through mid-2002, Gracie embezzled approximately \$144,000 from the Taxi Fund. Basically, Gracie wrote checks to himself out of the Taxi Fund bank account. Gracie concealed his activity by maintaining custody of the bank account statements and by providing the

trustees of the Taxi Fund falsified financial statements. Gracie's embezzlement depleted the Taxi Fund of nearly all of its assets.

II. Application of Guidelines

As set forth in the PSR (see ¶¶ 27-37), the relevant offense conduct yields the following guidelines computation under the November 1, 2001 version of the Guidelines:

Counts 1-13 (Mail Fraud)

Base Offense Level	6	U.S.S.G. § 2B1.1(a)
Loss Enhancement	10	U.S.S.G. § 2B1.1(b)(1)(F)
Abuse of Trust	2	U.S.S.G. § 3B1.3
Total	18	

The United States does not object to a three-level adjustment for acceptance of responsibility subject to the issue of restitution discussed below. Assuming a three-level adjustment, Gracie's offense level is **15**. The resulting Guidelines sentencing range is **18 to 24 months**. The fine range is **\$4,000 to \$40,000**.

III. Sentencing Recommendation

The United States recommends incarceration of 21 months, which is the middle of the level 15 guidelines range. The United States further recommends a fine of \$4,000, a special assessment

of \$1,300, a period of supervised release of three years, and restitution of \$144,037.77. It is the United States' position that Gracie be required to make at least partial restitution immediately. The United States has supplied to U.S. Probation and to Gracie records that show that from approximately November 2003 through April 2004, Gracie withdrew approximately \$100,000 from a Fidelity IRA account. It appears that Gracie did so in multiple increments below \$5,000 and that certain of the distributions appeared to go to a Sovereign Bank account.

IV. Defendant's Arguments for a Sentence Below the Guidelines Range

The Defendant has not yet supplied the United States with a sentencing memorandum or motion for a sentence below the guidelines range. The United States reserves the right to respond to any such arguments if and/or when they are presented in the Defendant's sentencing memorandum.

Conclusion

For the foregoing reasons, the Court should sentence Gracie in accordance with the recommendation of the United States.

Respectfully submitted,

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Dated: April 15, 2005

CERTIFICATE OF SERVICE

This is to certify that on April 15, 2005, I served the foregoing document, via electronic means, upon Miriam Conrad, counsel for the defendant and by U.S. Mail upon Lisa Dube of the U.S. Probation Office.

/s/ Jack W. Pirozzolo
Jack W. Pirozzolo
ASSISTANT U.S. ATTORNEY